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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/666,747	09/18/2003	Alberto Bertani	36132	7992

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EXAMINER

KYLE, MICHAEL J

ART UNIT	PAPER NUMBER
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3676

DATE MAILED: 03/04/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/666,747

Applicant(s)

BERTANI, ALBERTO

Examiner

Michael J Kyle

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-12 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-12 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☒ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date ____.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: ____.

DETAILED ACTION

Claim Objections

1. Claims 1-12 are objected to because claim 1 recites the limitation, “of the type”, in line 1 of the claim. It is unclear which features this limitation encompasses. Examiner suggests removing the phrase from the claim 1, and any other instances of this phrase in the claims.
2. Claim 1 recites the phrase, “characterized in that”, in line 9 of the claim. Examiner suggests replacing all instances of the phrase with --wherein--.
3. Claim 1 recites the limitation, “its operating surface” in line 12 of the claim. It is unclear which “operating surface” is being referred to, as there is no antecedent basis for this limitation.
4. Claim 1 is drawn to an “adjustable handle” as set forth in the preamble. It is unclear if the adjustable handle is being claimed in combination with the “mounting/removal tool” recited in the last line of claim 1. As best understood by the examiner, the combination is not being claimed, and the invention directed solely to the adjustable handle. If this is true, all limitations regarding the “mounting/removal tool” should be referred to using “for” or “adapted to” language. If the combination is to be claimed, it should be clearly recited in the preamble of the claims. For the purpose of this examination, any prior art that shows the claimed structure of the adjustable handle, and is capable of being used with a “mounting/removal tool” is considered to read on the limitations of the claim.
5. Claim 8 is objected to because of the recitation of “torx” seat. It is unclear what “torx” seat, as the structure of a “torx” seat is not present in the specification. If this is a trademarked name, the structure must be defined in the specification, and should comply with MPEP

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608.01(v). Examiner suggests defining a “torx” seat in the specification (in terms of its structure), or replacing the term “torx” in the claim with its structural features. As best understood by the examiner, a “torx” seat is any seat that allows for a torque to be provided to an object.

6. Claim 12 recites the limitation, “the outer end”. There is no antecedent basis for this limitation.

7. Claims 2-12 depend from claim 1, and include all of the limitations of claim 1, which is objected to. Therefore, these claims are also objected to.

Claim Rejections - 35 USC § 102

8. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

9. Claims 1, 2, 7, 8, and 10-12 are rejected under 35 U.S.C. 102(b) as being anticipated by Winkler (U.S. Patent No. 5,879,100). Winkler discloses an adjustable handle comprising an operating lever (11) ending into a cylindrical body (16) inside of which there is a tightening member (15) slidably mounted. The tightening member carries a bushing or stud (column 3, lines 9-11). The cylindrical body and tightening member comprise fellow toothings (27, 28) kept in engagement by a spring (13) and a check element (12). A pressure is imparted on the check element to overcome the action of the spring and remove engagement between the toothings. The check element is in the form of a push button in one piece with the tightening member (15)

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with a seat (slot on 23). Examiner notes that the completely assembled handled assembly is one piece. The seat is accessible from an operating surface (top surface of 23) and is capable of receiving a mounting/removal tool.

10. With respect to claim 2, it is noted that the limitation “moulded” is a process limitation in an article claim, and is given little patentable weight. As long as the prior meets all of the structural limitations of the claim, and is capable of being made by the same process, then it is considered to read on the claim. The seat on Winkler is capable of being moulded into the check element.

11. With respect to claims 7 and 8, Winkler discloses the seat to be a screw driver cutting and a torx seat. Examiner notes that the structure comprising a “torx” seat is not presented in the instant application, and it is unclear what a torx seat is, as discussed in the objections above.

12. With respect to claims 10-12, Winkler discloses a seat that is capable of receiving a tool. The tool may be a screwdriver or a motored screwdriver/unscrewdriver. The operating lever (11) has an ergonomic structure, and is slightly curved and tapered towards the outer end (see figures 1 and 2).

Claim Rejections - 35 USC § 103

13. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

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14. Claims 3 and 4 are rejected under 35 U.S.C. 103(a) as being unpatentable over Winkler. Winkler does not disclose the cap as claimed. However, as claimed, applicant's cap appears to be a result of separating the parts of Winkler. Specifically, the portion (23) of the element (12) of Winkler that extends radially outward of the shank portion (22) meets the limitations of claimed "cap". This portion is applied on the check element (12). The spring (13) abuts the inner periphery of this portion inside the body of the handle. Separating parts of the prior art is considered to be within the level of one having ordinary skill in the art. It would have been obvious to one having ordinary skill in the art at the time of the invention to modify Winkler by the outward portion (on 23), from the rest of element (12), as no new or unexpected result arises from such a modification.

15. With respect to claim 4, Winkler, once modified by separating outer portions of 23 from 12, would comprise a through hole (aligned with 22) at the center of the operating surface and is capable of being applied by snapping onto the check element. Examiner notes there is no specific structure claimed that is associated with the function, or process, of "snapping".

16. Claims 5 and 9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Winkler in view of Vadney (U.S. Patent No. 5,839,388). Winkler shows a seat that is a screwdriver cutting. However, Winkler fails to explicitly shows the seat to be a cross cut, or for the tool to be an Allen wrench of a motored screwdriver/unscrewdriver. Examiner notes that for an Allen wrench to be used, the seat must be a hexagonal shape.

17. Vadney teaches a fastener (31) with a seat (on head 37) that receives a driving tool. The seat may receive a flat bladed screwdriver, a Phillips head screwdriver, or an Allen wrench

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(column 5, lines 25-29). Therefore, Vadney establishes an equivalence between the seat of Winkler that receives a flat head screwdriver, and cross-cut (Phillips head screwdriver) and Allen wrench configurations. An Allen wrench is capable of being motorized. It would have been obvious to one having ordinary skill in the art at the time of the invention to use any of these configurations for the seat, as they are equivalent within the art.

Conclusion

18. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The following references are cited to further show the state of the art with respect to adjustable handles: Winkler (U.S. Patent No. 5,371,919), Boyer (U.S. Patent No. 5,533,232), Hung, Tsui et al, Boyer (U.S. Patent No. 5,898,974), Malloy et al, and Williams et al.

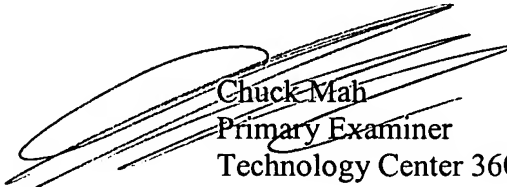
19. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michael J Kyle whose telephone number is 703-305-3614. The examiner can normally be reached on Monday - Friday, 8:30 am - 5:00 pm.

20. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Judy Swann can be reached on 703-306-4115. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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21. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

mk



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